

# **EXHIBIT 17**

# C A D W A L A D E R

Cadwalader, Wickersham & Taft LLP  
200 Liberty Street, New York, NY 10281  
Tel +1 212 504 6000 Fax +1 212 504 6666  
www.cadwalader.com

January 19, 2022

## VIA EMAIL

Brian E. Robison  
Gibson, Dunn & Crutcher, LLP  
2001 Ross Avenue, Suite 2100  
Dallas, TX 75201  
brobison@gibsondunn.com

Richard Parker  
Josh Lipton  
Gibson, Dunn & Crutcher, LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
rparker@gibsondunn.com  
jlipton@gibsondunn.com

Re: ***In re Pork Antitrust Litigation, 0:18-cv-01776***  
**Smithfield's Responses to MDL DAPs' First RFPs**

Dear Counsel:

We write on behalf of MDL Direct Action Plaintiffs ("MDL DAPs") to meet and confer regarding Smithfield Foods, Inc.'s ("Smithfield") November 22, 2021 responses to MDL DAPs' First Request for Production of Documents ("RFP"), Request Nos. 8, 9, 10, 14, and 29.<sup>1</sup>

MDL DAPs' RFP No. 8 sought "All Documents relating to public statements or announcements, press releases, or corporate Communications by You or *by other Pork Integrators* concerning Competitive Conductions." (emphasis added). In response, Smithfield objected that "any request for "All Documents" is overly broad, unduly burdensome, and not proportional to the needs of the case. Smithfield further objects to this Request on the grounds

---

<sup>1</sup> MDL DAPs reserve the right to inquire further regarding Smithfield's responses to other MDL DAP RFPs.

**C A D W A L A D E R**

Gibson Dunn & Crutcher, LLP  
January 19, 2022

that the phrases ‘corporate Communications’ and ‘Competitive Conditions’ are vague and ambiguous. Smithfield stated that it “conducted a reasonable search of its agreed or Court-ordered document custodians’ files and other sources using a search methodology and has produced relevant public announcements, press releases and communications with investment bankers or journalists related to competition in the United States pork industry.” This information does not respond to the DAP RFP No. 8 in full. Your response does not indicate that you have searched for, produced or will produce responsive documents by other pork integrations in your possession, custody or control. Further, we would like to understand what you mean when you say you used “a search methodology”. Please confirm whether Smithfield has produced all documents relating to public statements or announcements, press releases, or corporate Communications “by other Pork Integrators concerning Competitive Conditions” or whether Smithfield is withholding documents responsive to RFP No. 8.

MDL DAPs’ RFP No. 9 sought “All Documents relating to Your practice and policies for drafting, approving, and issuing all public Communications regarding Competitive Conditions.” In response, Smithfield objected to RFP No. 9 as “overly broad, unduly burdensome, and not proportional to the needs of the case.” Further, Smithfield objected “on the grounds that the phrases ‘public Communications’ and ‘Competitive Conditions’ are vague and ambiguous.” We would like to understand the basis for Smithfield’s objections, particularly its claims of burden and proportionality. We also seek to understand Smithfield’s position as to whether it has produced, or even begun to search for documents responsive to this request.

MDL DAPs’ RFP No. 10 sought “All Documents relating to budgets, projections, estimates, or related studies, presentations, business plans, or reports prepared or received by Your current or former directors, officers, or Management regarding” eleven topics, starting with “(a) Pork production, supply, capacity or output.” In response, Smithfield objected to this request as “overly broad, unduly burdensome, and not proportional to the needs of the case. Smithfield further objects to this Request on the grounds that unaudited financial statements are irrelevant to the parties’ claims and defenses and not proportional to the needs of the case.” We would like to understand the basis for Smithfield’s objections, particularly its claims of burden and proportionality and the relevance of financial statements. Smithfield stated that it “conducted a reasonable search of its agreed or Court-ordered document custodians’ files and other sources using a search methodology and has produced relevant, non-privileged documents responsive to this Request.” We would like to understand what you mean when you say you used “a search methodology”. Please confirm whether you have searched for and produced all documents “relating to budgets projections, estimates, or related studies, presentations, business plans, or reports prepared or received by [Smithfield’s] current or former directors, officers, or Management” regarding “Pork production, supply, capacity, or output.”

C A D W A L A D E R

Gibson Dunn & Crutcher, LLP  
January 19, 2022

MDL DAPs' RFP No. 14 sought "All Documents concerning *Pork supply or production decisions, reductions*, rationalization, industry leadership, industry discipline, production discipline, supply discipline, capacity discipline, or other so-called disciplined approaches or practices relating to the Pork industry." (emphasis added). In response Smithfield stated it "has conducted a reasonable search of its agreed or Court-ordered document custodians' files and other sources using a search methodology and produced relevant, non-privileged documents discussing purported leadership or discipline with respect to US pork supply, production, or capacity." We would like to understand what you mean when you say you used "a search methodology". Further, please confirm whether Smithfield has produced all documents related to the "Pork supply or production decisions [or] reductions" by Smithfield, any other Defendant, and any other Pork Integrator.

MDL DAPs' RFP No. 29 sought documents or data from January 1, 2005 through December 31, 2020 "sufficient to show the details of your production, processing, and supply of 'Pork Products' by day, month, quarter, and year by facility, including but not limited to": (a) "The volume—by total number and weight of Hogs—processed"; (b) "The product form/type/grade/cut produced or processed and the volume of each"; and (c) "The processing, production, capacity, and capacity utilization." Smithfield responded that it Smithfield "produced or will produce responsive data...in accordance with the Court's ESI Protocol for the date range January 1, 2008 through June 30, 2018." As you indicated in your response, please confirm whether additional productions will be made and when such productions will be made. Further, please provide your basis for producing documents responsive to this request only for the period January 1, 2008 through June 30, 2018. Finally, as indicated in your January 4, 2022 email, "For 2015 and 2016 sales data, the [Farmland Foods,] PR1 transactional data files can be referenced" but please indicate whether these transaction data files contain all 2015-2016 Smithfield sales data, or whether additional productions are forthcoming.

We request a meet and confer this week or next. Please let us know your availability for a call to discuss these issues.

Sincerely,

/s/ Philip J. Iovieno  
Philip J. Iovieno